

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

RSA No.4306 of 2017 (O&M)

Date of Decision: 11.09.2018

Ram Kumar

.....Appellant

Versus

Market Committee, Narnaul

.....Respondent

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present:- Mr. Anoop Kumar Yadav, Advocated, for the appellant.

TEJINDER SINGH DHINDSA J.

CM No.11175-C of 2017

In view of the averments made in the application, prayer is allowed. The delay of 77 days in refilling the accompanying appeal is condoned.

Application disposed of.

Main case

Market Committee, Narnaul, filed a suit against defendant/Ram Kumar, for permanent injunction to the effect that he be restrained from constructing on plot No.27 located at New Grain Market, Nangal Chaudhary, Tehsil Narnaul. Further directions were prayed for the defendant to construct only after depositing an amount of Rs.1,95,000/- and after getting the site plan duly approved.

Suit filed by the Market Committee, Narnaul, was decreed by the Trial Court on 31.07.2013 and defendant Ram Kumar was directed not to construct without complying with the mandatory stipulation contained in

the allotment letter dated 13.03.2001, pertaining to the plot in question. Liberty was however, granted to the defendant to proceed with the construction work after depositing all dues against him and getting the site plan approved after obtaining no objection certificate from the Market Committee.

Ram Kumar-defendant filed a civil appeal and which has been dismissed vide judgment dated 21.09.2016, passed by the learned Additional District Judge, Narnaul.

Resultantly, defendant/appellant is in second appeal before this Court.

Brief facts are that in pursuance to an auction held on 02.02.2001, defendant/appellant was allotted a plot at New Grain Market, Nangal Chaudhary. Allotment letter dated 13.03.2001, was issued. Case of the plaintiff/respondent-Market Committee was that the allottee was required to construct on the plot within two years from the date of delivery of possession and thereafter could be granted extension for a further period of 3 years but on payment of requisite extension fee. In spite of repeated letters/notices, having been issued the extension fee was not deposited, and even the site plan was not got approved. Suit was instituted on the averments that the defendant/appellant herein has collected the building material at the site and is bent upon proceeding with the construction work and if he is permitted to proceed, it would cause irreparable loss apart from leading to multiplicity of proceedings.

Suit was contested by the defendant by taking a plea that construction had been carried out after the allotment and as such the question of payment of extension fee does not arise. As per defendant, it was only the plaster work that remained to be done.

At the cost of reiteration, suit filed by Market Committee, was decreed in the manner as afore-noticed. Judgment and decree of the Trial Court has been affirmed in terms of decision dated 21.09.2016, passed by the lower Appellate Court while dismissing the civil appeal preferred by the defendant/appellant.

Counsel for the appellant has been heard at length.

It is a case where there is no dispute that the installments for the plot in question have been paid in full. The only issue is with regard to deposit of extension fee.

The issuance of the allotment letter dated 13.03.2001, is not disputed and neither the contents thereof. It has gone uncontroverted that as per Clause 14 of the allotment letter, the allottee was to construct the building as per approved design within a period of two years from the date of offer of possession of the plot.

Counsel during the course of hearing has conceded that possession of the plot had been given within a month of the issuance of allotment letter i.e.in the months of February/March 2001. It has further been conceded by counsel that the site plan alongwith requisite fee had only been submitted in December 2003 i.e.after the lapse of two years. In others words there was a clear violation of condition No.14 contained in the allotment letter dated 13.03.2001 Exhibit PW1/1.

Furthermore, it has come in the evidence of Ashok Kumar who was the power of attorney holder of the appellant herein i.e.site plan has not been got approved from the market committee.

Under such circumstances, no infirmity is found in the judgment and decree of the Trial Court and which has been affirmed by the lower Appellate Court, restraining the appellant herein to construct on the

plot without complying with the stipulations and conditions of the allotment letter and particularly when liberty has been granted to him to proceed further with the construction work after depositing all dues and getting site plan approved from the competent authority.

No question of law is involved in the appeal.

No merit.

Appeal dismissed.

(TEJINDER SINGH DHINDSA)
JUDGE

11.09.2018

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No